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09/689,305	10/12/2000	Gary A. Freeman	AB-1638-1D US	2681
32605 7590 01/30/2008 MACPHERSON KWOK CHEN & HEID LLP 2033 GATEWAY PLACE SUITE 400 SAN JOSE, CA 95110			EXAMINER RICHMAN, GLENN E	
			ART UNIT 3764	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/689,305
Filing Date: October 12, 2000
Appellant(s): FREEMAN ET AL.

**MAILED
JAN 30 2008
GROUP 3700**

Howard Popper
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/9/07 appealing from the Office action mailed 12/1/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 13-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Jachimowicz et al.

Jachimowicz et al disclose a flexible strap configured and sized to secure onto a wearer (col. 2, lines 18-27), the flexible strap comprising a holographic layer covering at least a portion of the strap's visible exterior (col. 2, lines 48 – seq.), the holographic layer presents a holographic image of one of the following: leather and metal (col. 2, lines 48 – seq.), the holographic layer is removable (col. 3, lines 3-23), a display element connected to the strap (col. 2, lines 48 – seq.), and circuitry connected to the display element for controlling the display presented by display element (col. 2, lines 48 – seq.), the display element comprises a flexible display element (col. 2, lines 48 – seq.).

(10) Response to Argument

1. It is apparent that Jachimowicz relates to textile holographic fibers and repeatedly uses terms such as "woven" and "interwoven" fibers. No where does the Jachimowicz reference disclose any of the particular limitations explicitly set forth in claim 13, namely: flexible strap, sized to secure onto a wearer, or non-woven that are clearly enumerated in claim 13.

As to 1 above, Jachimowicz repeats only "interwoven" and just twice, stating the fibers "can be interwoven". Inherently, since the fibers "can be" interwoven, and the patent does not discuss woven, or interwoven further, the fibers are non-woven as claimed.

Furthermore, as Jachimowicz discloses "Thus, it would be highly desirable to provide for a holographic textile fiber for use in fabric, clothing, or the like.", it is inherent that a strap falls into the category of clothing.

2. On the same basis the further limitations set forth in dependent claims 14-17, inter alia, leather, metal, removable are not anywhere found in the Jachimowicz reference. "

Leather or metal is considered a change in ornamental design having no mechanical function and is within the scope of Jachimowicz's holographic images. In re Seid, 161 F.2d 339, 73 USPQ 431 (CCPA 1947).

Furthermore, as Jachimowicz discloses "clothing", it is inherent that it is removable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Glenn Richman



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